

Information Commissioner's Office

Call for evidence:

Age Appropriate Design Code

Start date: 27 June 2018

End date: 19 September 2018



Introduction

The Information Commissioner (the Commissioner) is calling for evidence and views on the Age Appropriate Design Code (the Code).

The Code is a requirement of the Data Protection Act 2018 (the Act). The Act supports and supplements the implementation of the EU General Data Protection Regulation (the GDPR).

The Code will provide guidance on the design standards that the Commissioner will expect providers of online 'Information Society Services' (ISS), which process personal data and are likely to be accessed by children, to meet. Once it has been published, the Commissioner will be required to take account of any provisions of the Code she considers to be relevant when exercising her regulatory functions. The courts and tribunals will also be required to take account of any provisions they consider to be relevant in proceedings brought before them. The Code may be submitted as evidence in court proceedings.

Further guidance on how the GDPR applies to children's personal data can be found in our guidance [Children and the GDPR](#). It will be useful to read this before responding to the call for evidence, to understand what is already required by the GDPR and what the ICO currently recommends as best practice. In drafting the Code the ICO may consider suggestions that reinforce the specific requirements of the GDPR, or its overarching requirement that children merit special protection, but will disregard any suggestions that fall below this standard.

The Commissioner will be responsible for drafting the Code. The Act provides that the Commissioner must consult with relevant stakeholders when preparing the Code, and submit it to the Secretary of State for Parliamentary approval within 18 months of 25 May 2018. She will publish the Code once it has been approved by Parliament.

This call for evidence is the first stage of the consultation process. The Commissioner seeks evidence and views on the development stages of childhood and age-appropriate design standards for ISS. The Commissioner is particularly interested in evidence based submissions provided by: bodies representing the views of children or parents; child development experts; providers of online services likely to be accessed by children, and trade associations representing such providers. She appreciates that different stakeholders will have different and particular areas of expertise. The Commissioner welcomes responses that are limited to specific areas of interest or expertise and only address questions within these areas, as well as those that address every question

asked. She is not seeking submissions from individual children or parents in this call for evidence as she intends to engage with these stakeholder groups via other dedicated and specifically tailored means.

The Commissioner will use the evidence gathered to inform further work in developing the content of the Code.

The scope of the Code

The Act affords the Commissioner discretion to set such standards of age appropriate design as she considers to be desirable, having regard to the best interests of children, and to provide such guidance as she considers appropriate.

In exercising this discretion the Act requires the Commissioner to have regard to the fact that children have different needs at different ages, and to the United Kingdom's obligations under the United Nations Convention on the Rights of the Child.

During Parliamentary debate the Government committed to supporting the Commissioner in her development of the Code by providing her with a list of 'minimum standards to be taken into account when designing it.' The Commissioner will have regard to this list both in this call for evidence, and when exercising her discretion to develop such standards as she considers to be desirable.

In developing the Code the Commissioner will also take into account that the scope and purpose of the Act, and her role in this respect, is limited to making provision for the processing of personal data.

Responses to this call for evidence must be submitted by 19 September 2018. You can submit your response in one of the following ways:

Online

Download this document and email to:

childrenandtheGDPR@ICO.org.uk

Print off this document and post to:

Age Appropriate Design Code call for evidence
Engagement Department
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow

Cheshire SK9 5AF

If you would like further information on the call for evidence please telephone 0303 123 1113 and ask to speak to the Engagement Department about the Age Appropriate Design Code or email childrenandtheGDPR@ICO.org.uk

Privacy statement

For this call for evidence we will publish responses received from organisations but will remove any personal data before publication. We will not publish responses from individuals. For more information about what we do with personal data please see our [privacy notice](#).

Section 1: Your views and evidence

Please provide us with your views and evidence in the following areas:

Development needs of children at different ages

The Act requires the Commissioner to take account of the development needs of children at different ages when drafting the Code.

The Commissioner proposes to use their age ranges set out in the report Digital Childhood – addressing childhood development milestones in the Digital Environment as a starting point in this respect. This report draws upon a number of sources including findings of the United Kingdom Council for Child Internet Safety (UKCCIS) Evidence Group in its literature review of Children’s online activities risks and safety.

The proposed age ranges are as follows:

3-5
6-9
10-12
13-15
16-17

Q1. In terms of setting design standards for the processing of children’s personal data by providers of ISS (online services), how appropriate you consider the above age brackets would be (delete as appropriate):

Not at all appropriate
Not really appropriate
Quite appropriate
Very appropriate

Q1A. Please provide any views or evidence on how appropriate you consider the above age brackets would be in setting design standards for the processing of children’s personal data by providers of ISS (online services),

N/A

Q2. Please provide any views or evidence you have on children’s development needs, in an online context in each or any of the above age brackets.

N/A

The United Nations Convention on the Rights of the Child

The Data Protection Act 2018 requires the Commissioner to take account of the UK's obligations under the UN Convention on the Rights of the Child when drafting the Code.

Q3. Please provide any views or evidence you have on how the Convention might apply in the context of setting design standards for the processing of children's personal data by providers of ISS (online services)

N/a

Aspects of design

The Government has provided the Commissioner with a list of areas which it proposes she should take into account when drafting the Code.

These are as follows:

- default privacy settings,
- data minimisation standards,
- the presentation and language of terms and conditions and privacy notices,
- uses of geolocation technology,
- automated and semi-automated profiling,
- transparency of paid-for activity such as product placement and marketing,
- the sharing and resale of data,
- the strategies used to encourage extended user engagement,
- user reporting and resolution processes and systems,
- the ability to understand and activate a child's right to erasure, rectification and restriction,
- the ability to access advice from independent, specialist advocates on all data rights, and
- any other aspect of design that the commissioner considers relevant.

Q4. Please provide any views or evidence you think the Commissioner should take into account when explaining the meaning and coverage of these terms in the code.

Q5. Please provide any views or evidence you have on the following:

Q5A. about the opportunities and challenges you think might arise in setting design standards for the processing of children's personal data by providers of ISS (online services), in each or any of the above areas.

The young people were sometimes unaware of the need to be a certain age to use particular apps/websites and admitted that when they were aware of the age limits for certain websites/apps they would ignore this and use them without the knowledge of parents/guardians. Thought needs to be given as to how organisations can monitor compliance with and enforce these rules.

Q5B. about how the ICO, working with relevant stakeholders, might use the opportunities presented and positively address any challenges you have identified.

Ensure any marketing of websites/apps is age appropriate.

Better educate young people about why age limits exist and the potential ramifications/pitfalls of uploading personal information.

Q5C. about what design standards might be appropriate (ie where the bar should be set) in each or any of the above areas and for each or any of the proposed age brackets.

All of the responses relate to young people aged 16-17:

- default privacy settings

The young people did not like having to proactively 'turn off' access to personal data. They preferred to be given a choice to allow more access to information if they wanted to. They also did not like apps changing privacy settings through updates without informing them or hiding the changes with other information.

- data minimisation standards,

The young people did not like websites/apps that asked for bank details whilst indicating the service was free (for example for a 3 month free trial) and felt details should only be asked for after the trial had expired.

The young people all felt that too much data was collected by social media companies without any real need for the data. For example the young people reported that snapchat requires location data to be switched on to enable you to use filters, the young people did not understand the reason for this and did not like this.

The young people reported using apps/websites even though they were uncomfortable with the level of personal information that was being collected because family/friends used the app/website and therefore they felt they had no real choice but to allow the use of their data.

Permission to use location was often requested without an easy to understand explanation of why that information was being collected.

- the presentation and language of terms and conditions and privacy notices,

The young people wanted Privacy Notices designed specifically for children/young people, that fit on 1 page, are simple and got to the point with yes/no options wherever possible. They liked the idea of layered notices so more in depth information could be found if required.

Enable you to zoom in on privacy notices so they can be read with ease on a mobile phone screen. The young people reported that this was not always possible.

The young people felt it would be a lot easier to understand how to manage privacy settings if social media companies all used the same language, types of settings and displayed the information in the same way so that you didn't have to work out how to change the settings for each different app/website.

The young people wanted simple Yes or No Questions when they are being asked to consent to use, language that is easy to understand and in plain English. They also wanted the information to be kept separate (eg from other T & Cs)

The young people thought a video may be a good way of communicating the information.

- uses of geolocation technology,

The young people were concerned that location often 'turns back on' when updates are installed and that sometimes they couldn't turn it off or it kept switching back on.

The young people wanted to allow access to some information from their devices eg photographs, whilst denying access to other information eg location.

One particular concern was that when location is turned off in snapchat the user's last known location is still shown on the 'snapmap'. This often showed a user's home address or somewhere they often visited and there was no known way to remove this unless they turned location on again somewhere else.

They young people were concerned that people who add you as a contact but you have not responded to their request can see you on snap map unless you are in 'ghost mode'. This is not obvious and many young people did not realise this was happening.

- transparency of paid-for activity such as product placement and marketing,

Many of the young people had completed 'surveys' online, many on social media sites without appreciating what the information was being used for or what potentially it could be used for. Sometimes this would be paid.

One was asked a question about whether Teresa May should still be prime minister and didn't believe she had given away anything about herself by answering the question. Other young people reported always deleting the surveys because they were worried about them.

This is an area that should be referred to specifically in the code.

- the sharing and resale of data,

The young people were concerned that information was shared by organisations without them realising it would be, for example google images showed their social media profile pictures even though they had set their accounts to private. The young people had an understanding that once they had uploaded something it was likely to always be on the internet somewhere.

- the strategies used to encourage extended user engagement,

The young people did not like features that could lead to others knowing when they had viewed their social media accounts. For example the use of a 'snapchat score', which goes up when you use the app, meant that friends would often query why they hadn't responded to a particular message. Their friends knew they had used the app because their snapchat score had 'gone up'. An option to turn this on/off was desired.

- the ability to understand and activate a child's right to erasure, rectification and restriction,

Organisations should make it clear you don't have to pay to delete/remove personal data as some young people were unclear about this.

Q5D. examples of ISS design you consider to be good practice.

- The young people wanted to be alerted if someone tags them in a photo so they can 'approve' or 'reject' the tag. Not all apps offer this feature. When alerting the individual, the apps should also make it clear who will be able to see the photo, eg whether the person who has tagged you has set their account to private or whether it would be available to view by all. The young people were concerned that when someone tagged you and they had not set their account to private everyone could see the photos. They believed this also led to the images being able to be located in a google search.
- Default to the 'more private' privacy settings so you have to change the settings to allow access/share more information. Do not change privacy settings or introduce new features which affect privacy hidden with updates.
- Maximise choice wherever possible
- Include somewhere a list of any contacts that you have deleted so that you don't have to block people to see that they definitely have been removed from your contacts.
- Make it easy to change your mind later on if you want to
- Guidance for users about uploading other people's information eg asking them how they feel about it and not just assuming they are happy for it to be uploaded, guidance to parents/carers to think about what they upload about the young people/children.

Q5E. about any additional areas, not included in the list above that you think should be the subject of a design standard.

The young people were particularly concerned with the personal data others had shared about them online. They wanted to be more in control of this.

Q6. If you would be interested in contributing to future solutions focussed work in developing the content of the code please provide the following information. The Commissioner is particularly interested in hearing from bodies representing the views of children or parents, child development experts and trade associations representing providers of online services likely to be accessed by children, in this respect.

Name

Email

Brief summary of what you think you could offer

Further views and evidence

Q7. Please provide any other views or evidence you have that you consider to be relevant to this call for evidence.

The young people wanted organisations to improve on the following:

Allow me to use the app/website without collecting more personal data than I want to give.

Always enable you to turn off location data (don't have it automatically switched on or switch it on when updates are downloaded).

Option sent to you when you're tagged in a photo to see whether you do want to be tagged or not.

Let me use the Apps without collecting unnecessary personal data

Always allow choice/option to deny access

Give choice for different types of personal data eg yes to accessing photos no to accessing location rather than lumping everything together

Make it easy to change your mind later on if you want to

Make it easy to change settings

The young people particularly wanted to be provided with guidance about the following:

What happens if I delete my account and set up a new one –

does this delete all of the information from my last account?

How do you turn off your location - it never seems to work?

Where is my Data Stored?

When I delete my photos from social media, why do they still appear in google images and how can I delete them from everywhere?

Why do images appear in google images even though my profile is set to private?

When is it allowed for others to access my data?
What are my rights when it comes to my data?
When can I actually say no to my data being held?

Section 2: About you

Are you:

A body representing the views or interests of children? Please specify: Heritage and Culture Warwickshire, part of Warwickshire County Council conducted a session with young people from Warwickshire who are in foster care or who had recently left foster care, to ascertain their understanding of online privacy issues. The session was funded by Arts Connect to provide guidance to the Heritage Sector about the use of young people's data in future digital projects.	<input checked="" type="checkbox"/>
A body representing the views or interests of parents? Please specify:	<input type="checkbox"/>
A child development expert? Please specify:	<input type="checkbox"/>
A provider of ISS likely to be accessed by children? Please specify:	<input type="checkbox"/>
A trade association representing ISS providers? Please specify:	<input type="checkbox"/>
An ICO employee?	<input type="checkbox"/>

Other? Please specify:	<input type="checkbox"/>
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**Thank you for responding to this call for evidence.
We value your input.**